



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-893]

Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Reconsideration of Changed Circumstances Review

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") has received information sufficient to warrant reconsideration of a completed changed circumstances review ("CCR") of the antidumping duty order on certain frozen warmwater shrimp from the People's Republic of China ("PRC") originally conducted in 2007.¹ Based on evidence uncovered in the sixth administrative review ("AR6") of this proceeding,² we find the information submitted by Hilltop International ("Hilltop")³ in this CCR contains material misrepresentations and, consequently, is unusable for any purposes. Accordingly, our original determination that Hilltop is the successor-in-interest to Yelin Enterprise Co. Hong Kong ("Yelin") is reversed such that Hilltop should properly be

¹ See Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results of Changed Circumstances Review, 72 FR 33447 (June 18, 2007).

² See Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results, Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not To Revoke in Part, 77 FR 53856 ("PRC Shrimp AR6 Final").

³ In the final results of the recently completed seventh administrative review, the Department noted that Hilltop, as in prior reviews, has reported that it is affiliated with Yangjiang City Yelin Hoitat Quick Frozen Seafood Co., Ltd., Fuqing Yihua Aquatic Food Co., Ltd., Yelin Enterprise Co., Ltd., Ocean Beauty Corporation, Ever Hope International Co., Ltd., Ocean Duke Corporation and Kingston Foods Corporation. See Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results of Administrative Review; 2011–2012, 78 FR 56209, 56210 (September 12, 2013) ("PRC Shrimp AR7 Final").

considered part of the PRC-wide entity, absent a determination of its own rate separate from the PRC-wide entity.⁴

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2593.

SUPPLEMENTARY INFORMATION:

Background

Yelin was formally dissolved on December 12, 2006.⁵ On March 16, 2007, Hilltop filed a submission requesting that the Department conduct a CCR of the antidumping duty order on certain frozen warmwater shrimp from the PRC to confirm that Hilltop is the successor-in-interest to Yelin.⁶ On May 2, 2007, the Department published a combined initiation and preliminary results finding that Hilltop was the successor-in-interest to Yelin.⁷ On June 18, 2007, this finding was confirmed in the final results of this CCR.⁸

On December 5, 2012, the Department reopened the record of this CCR to reconsider our determination in light of the evidence discovered in AR6 regarding Hilltop's affiliation with Ocean King (Cambodia) Co. Ltd.⁹ On February 27, 2013, the Department published in the

⁴ See, e.g., Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Changed Circumstances Review, 75 FR 46914, 46916 (August 4, 2010); Frozen Warmwater Shrimp from Vietnam: Notice of Final Results of Antidumping Duty Changed Circumstances Reviews, 74 FR 42050, 42051 (August 20, 2009).

⁵ See Letter from Hilltop to the Secretary of Commerce "Request for Expedited Changed Circumstances Determination" (March 16, 2007).

⁶ See *id.*

⁷ Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Initiation and Preliminary Results of Changed Circumstances Review, 72 FR 24273 (May 2, 2007).

⁸ See Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results of Changed Circumstances Review, 72 FR 33447 (June 18, 2007).

⁹ See Letter to All Interested Parties from Catherine Bertrand, Program Manager, Office 9, "Certain Frozen Warmwater Shrimp from the People's Republic of China: Reopening the Record of Changed Circumstances Review" (December 5, 2012).

Federal Register its Preliminary Reconsideration of this CCR, wherein the original finding that Hilltop was the successor-in-interest to Yelin was preliminarily reversed and Hilltop was preliminarily found to be part of the PRC-wide entity.¹⁰ Hilltop and Petitioner¹¹ submitted comments on the Preliminary Reconsideration on March 27, 2013,¹² and rebuttal comments on April 1, 2013.¹³

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.¹⁴ Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the final reconsideration of this CCR is now December 11, 2013.¹⁵

Scope of Order

The merchandise that is subject to the order is certain frozen warmwater shrimp from the PRC. The products subject to the order at the time of this CCR was originally conducted¹⁶ were

¹⁰ See Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Preliminary Reconsideration of Changed Circumstances Review, 78 FR 13324 (February 27, 2013) ("Preliminary Reconsideration").

¹¹ Petitioner is the Ad Hoc Shrimp Trade Action Committee and its members.

¹² See Letter to the Secretary of Commerce from Petitioner "Changed Circumstances Review for Certain Frozen Warmwater Shrimp from the People's Republic of China: Case Brief" (March 27, 2013); Letter to the Secretary of Commerce from Hilltop "Administrative Case Brief for Hilltop International in the Reconsideration of Changed Circumstances Review: Certain Frozen Warmwater Shrimp from the People's Republic of China" (March 27, 2013).

¹³ See Letter to the Secretary of Commerce from Petitioner "Changed Circumstances Review for Certain Frozen Warmwater Shrimp from the People's Republic of China: Rebuttal Brief" (April 1, 2013); Letter to the Secretary of Commerce from Hilltop "Reply Brief for Hilltop International in the Reconsideration of Changed Circumstances Review: Certain Frozen Warmwater Shrimp from the People's Republic of China" (April 1, 2013).

¹⁴ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

¹⁵ We note that the original deadline for this final reconsideration was November 24, 2013, which was a Sunday. Accordingly, this final reconsideration has been extended 16 days from the following business day, November 25, 2013.

¹⁶ We note that on April 26, 2011, the Department amended the antidumping duty order to include dusted shrimp, pursuant to the U.S. Court of International Trade ("CIT") decision in Ad Hoc Shrimp Trade Action Committee v. United States, 703 F. Supp. 2d 1330 (CIT 2010) and the U.S. International Trade Commission determination, which found the domestic like product to include dusted shrimp. See Certain Frozen Warmwater Shrimp From Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision, 76 FR 23277 (April 26, 2011). The scope referenced here is the

classified under U.S. Harmonized Tariff Schedule (“HTSUS”) subheadings 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise remains dispositive.¹⁷

Analysis of Comments Received

All issues raised in case and rebuttal briefs are addressed in the Final Reconsideration Memorandum.¹⁸ A list of the issues which parties have raised, and to which we have responded in the Final Reconsideration Memorandum, is attached to this notice as an Appendix. The Final Reconsideration Memorandum is a public document on file electronically via the Department’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Final Reconsideration Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/>. The signed Final Reconsideration Memorandum and the electronic versions of the Final Reconsideration Memorandum are identical in content.

Final Reconsideration

For the reasons detailed in the Final Reconsideration Memorandum, we continue to find that Hilltop is not the successor-in-interest to Yelin and is considered part of the PRC-wide entity.

scope that was in effect when the Department conducted this original CCR proceeding.

¹⁷ See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the People’s Republic of China, 70 FR 5149 (February 1, 2005).

¹⁸ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Decision Memorandum for Final Reconsideration of Changed Circumstances Review: Certain Frozen Warmwater Shrimp from the People’s Republic of China,” (“Final Reconsideration Memorandum”) dated concurrently with these results and hereby adopted by this notice.

In making this determination we have relied on adverse facts available, in accordance with section 776(a) and (b) of the Tariff Act of 1930, as amended (“the Act”).

Instructions to U.S. Customs and Border Protection

As a result of this determination, we reverse our previous successor-in-interest determination and find that Hilltop is not the successor-in-interest to Yelin. Although the reconsidered CCR precedes several administrative reviews in which Hilltop was involved, we note that this finding is consistent with the most recently completed seventh administrative review, in which Hilltop was determined to be part of the PRC-wide entity.¹⁹ Hilltop is currently subject to the cash deposit requirements applicable to the PRC-wide entity, which is 112.81 percent. We also note that this finding is consistent with the Department’s most recent findings in the fourth, fifth, and six administrative reviews, in which Hilltop was found to be part of the PRC-wide entity.²⁰ Thus, Hilltop’s current cash deposit requirement shall remain in effect until further notice.

Notification

This notice serves as a reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(b)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.221(c)(3).

¹⁹ See, e.g., PRC Shrimp AR7 Final, 78 FR at 56210.

²⁰ See Final Results Of Redetermination Pursuant To Court Remand (November 4, 2013), available at <http://enforcement.trade.gov/remands/>; Final Results Of Redetermination Pursuant To Court Remand (November 7, 2013), available at <http://enforcement.trade.gov/remands/>; PRC Shrimp AR6 Final.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

December 6, 2013
Date

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